

STATE OF NEW YORK  
DEPARTMENT OF LABOR  
STATE OFFICE BUILDING CAMPUS  
ALBANY, NEW YORK 12240-0100

In the Matter of  
Part 56 of Title 12 of the Official Compilation  
of Codes, Rules and Regulations  
of the State of New York

(Cited as 12NYCRR 56)  
(As Amended Effective November 9, 1994)

Code Rule Section 56-1.9 Subdivision (a):  
Section 56-6.1;  
Section 56-8.1, Subdivision (j);  
Section 56-9.1; Section 56-10.1;  
Section 56-11.1, Subdivision (b);  
Section 56-12.1, Subdivision (c);  
Section 56-15.2, Subdivision (b), (c), (d) and (e).

COMMISSIONER'S  
DECISION

APPLICABLE  
VARIANCE  
(AV 106) \*

ASBESTOS

DEMOLITION OF  
CONDEMNED  
BUILDINGS OR  
STRUCTURES

DATED  
JUNE 3, 1997

Pursuant to Section 30 of the Labor Law, The Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56, as they relate to the felling of structurally unsound asbestos containing buildings or structures and the imminent danger said buildings or structures present to the public, were they to collapse due to fire, rain, snow loads, or other unpredictable natural disasters.

The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to condemned buildings or structures and the decisions rendered relative to these petitions.

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APPLICABLE VARIANCE 106  
DEMOLITION OF CONDEMNED  
BUILDINGS OR STRUCTURES

The Commissioner of Labor finds that the issuance of an APPLICABLE VARIANCE from the aforecited provisions of Industrial Code Rule 56, as such pertain to felling structurally unsound buildings that contain asbestos or asbestos materials which meet the aforecited qualifications, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

For the purposes of this variance, a building may be determined to be structurally unsound only by a building official of the local municipality or by a currently registered New York State Licensed Professional Engineer or Registered Architect who has deemed the building condemned due to its being unsafe and in imminent danger of collapse.

APPLICABLE VARIANCE

A VARIANCE from the aforecited provisions of Industrial Code Rule (ICR) 56 is hereby granted, relative to felling a structurally unsound asbestos containing building which has been inspected and condemned by a local building official or a currently registered New York State Professional Engineer or Registered Architect licensed in the State of New York after the building was deemed structurally unsound/unsafe as a

project shall be deemed to be a large project with the appropriate notification fee of \$2000.00.

Work Area Notification:

1. The entire demolition area shall be enclosed within a barrier or fence (example: orange construction fence or snow fence). The intent of this barrier is to define the work area, alert the public to the asbestos work and associated hazards and to prevent unauthorized entry into the work area.
2. The work area shall be vacated as per ICR Section 56-8.1(a) and secured against unauthorized entry/exit. The building/structure shall be secured by sealing and/or boarding up all doors, windows and other openings to the maximum extent possible.
3. Signage in accordance with the requirements of ICR 56-8.1 (b) shall be posted on the exterior of the work areas barrier warning the public of the asbestos hazard.

Unauthorized Individuals:

1. Uncertified persons shall be prohibited from the work area during the entirety of the asbestos project; that is, prior to preparation

result of damage incurred from fire, rain, snow loads or other unpredictable natural disaster. Pursuant to this variance, the condemned building may be felled without surveying the building for the quantity and locations of asbestos and without remediating the asbestos and asbestos containing materials prior to proceeding with building demolition, subject to the following conditions:

THE CONDITIONS

Letter of Condemnation:

1. A copy of the letter of condemnation issued by either a local building official or a currently registered New York State Licensed Professional Engineer or Registered Architect shall be received by the New York State Department of Labor, Division of Safety and Health, Engineering Services Unit prior to commencing the demolition. A copy of the Letter of Condemnation shall be posted with this Applicable Variance at the work site.

Notification Fee:

1. Unless the size of the project can be positively quantified, the

of the work area and until satisfactory clearance air monitoring results have been achieved.

Personnel:

1. Entry/exit of all persons and equipment shall be through one designated and secured "doorway" in the barrier or fence which shall provide an adequate and appropriate means of egress from the work area.
2. Personal protective equipment as required by ICR Section 56-4.1(d) shall be provided and used by all persons within the work area.
3. Only persons who are directly involved with the project and who have the required certification shall be permitted within the barrier.

Plasticizing:

1. Fire-resistant six-mil polyethylene shall be used to plasticize dumpsters and to cover debris and contain waste water.

Decontamination Areas:

1. A personal decontamination enclosure system that complies with Subpart 56-9 shall be utilized. It shall be located in close

- proximity to the work area. This personal decontamination system shall be removed only after satisfactory clearance air monitoring results have been achieved.
2. An equipment decontamination area shall be cordoned off within the worksite for cleaning of heavy equipment, i.e., backhoes, excavators, loaders, etc. The ground surface in this decontamination area shall be banked on the sides to confine the contaminated waste water.
  3. Equipment shall be decontaminated utilizing a pressure wash system, after which all exposed surfaces of the equipment shall be manually wet wiped. Upon completion of the decontamination procedures, the interior of the equipment decontamination area shall be wet wiped.
  4. The earth surface below the equipment decontamination area shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

Waste Water:

1. The demolition waste shall be wetted on a continuous basis prior to, during and subsequent to its actual collection and removal. Fog nozzles, or similar type equipment, shall be used to perform the wetting.

2. Waste water shall be confined to within the controlled demolition area. All waste water shall be collected by means of trenching or ditches and directed into a holding tank. Disposal of such waste water shall be in accordance with all applicable laws, regulations, etc.
3. After the waste water has dissipated, the earth surface below the trenches and holding tank shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

Demolition Debris:

1. All debris, structural members, barrier components, used filters and similar items shall be considered to be asbestos containing materials/asbestos contaminated waste unless fully decontaminated as per this Rule.
2. No dry disturbance or removal of asbestos material shall be permitted.
3. All material being removed shall be kept completely saturated at all times. This shall be accomplished by misting debris prior to and during removal. Until each disposal container is sealed for

removal from the site, each container shall be continually misted.

4. Pending disposal, all demolition waste shall be placed in hardwall, closed containers or vehicles with at least six-mil plastic draped loosely over the sides and top so as to facilitate being wrapped over the top of the load and sealed prior to transport from the site.
5. The earth surface below the rubble shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

Air Monitoring:

1. Air monitoring shall be conducted in accordance with the requirements of Industrial Code Rule Subpart 56-17.7,
2. In addition to the requirements of Industrial Code Rule Subpart 56-17.7, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.



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3. Work area perimeter air sampling shall be conducted during the project in accordance with ICR Subpart 56-17.
4. Final air clearance shall be obtained in accordance with ICR Subpart 56-17.

General Conditions:

1. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.
2. This APPLICABLE VARIANCE is limited in its applicability to the demolition project involving the demolition and removal of waste from the subject premises.
3. The Petitioner shall perform inspections of the worksite at least daily to ensure that the provisions of the APPLICABLE VARIANCE are being complied with.
4. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule Subparts 56-1 through 56-18.

This VARIANCE shall apply and shall be applied by all enforcement

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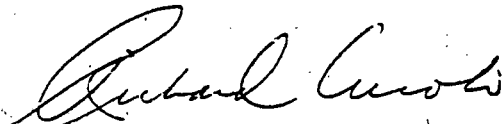
officials to all persons and in all places to which the aforecited provisions of Industrial Code Rule 56 apply to the demolition of condemned buildings with the same force and effect as if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforecited provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY

COMMISSIONER OF LABOR

BY



RICHARD CUCOLO, DIRECTOR

DIVISION OF SAFETY AND HEALTH

\* This DECISION supersedes APPLICABLE VARIANCE 100, COMMISSIONER'S DECISION dated December 1, 1994.

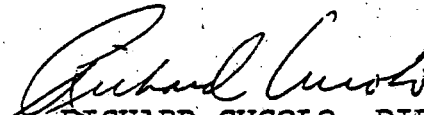
14. All other applicable provisions of Industrial Code Rule 56-1 through 56-18 shall be complied.

This VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforecited provisions of Industrial Code Rule 56 apply to the use of glovebags for the removal of asbestos or asbestos containing material with the same force and effect as if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforecited provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR

BY

  
RICHARD CUCOLO, DIRECTOR  
DIVISION OF SAFETY AND HEALTH

\* This DECISION supersedes APPLICABLE VARIANCE 91, COMMISSIONER'S DECISION dated March 20, 1989.